

will be recognized for 2 minutes, there being 30 Members on their feet at the time and debate having been limited to 1 hour.

## § 9.—Appeals of Rulings

Debate on an appeal in the Committee of the Whole is under the five-minute rule<sup>(11)</sup> and may be closed by a motion to close debate or to rise and report.<sup>(12)</sup> In recognizing Members for debate on an appeal in the Committee of the Whole, the Chairman alternates between those favoring and those opposing the ruling.<sup>(13)</sup>

Rule I clause 4,<sup>(14)</sup> which relates to authority of the Speaker, provides that no Member shall speak

11. §9.6, *infra*; see also note to Rule I clause 4, *House Rules and Manual* §628 (1979); and 7 Cannon's Precedents §1608.

12. Rule I clause 4, *House Rules and Manual* §628 (1979); 5 Hinds' Precedents §§6947, 6950; and 8 Cannon's Precedents §3453.

In an exceptional case the Committee of the Whole rose and reported a question of order for decision of the House when an appeal was taken from a ruling of a Chairman; in that instance, the Chairman had ruled that an appeal could not be taken in the Committee. 4 Hinds' Precedents §4783.

13. 8 Cannon's Precedents §3455.

14. *House Rules and Manual* §624 (1979).

more than once on appeal, unless by permission of the House; and this provision is applicable to Members rising for that purpose in the Committee.<sup>(15)</sup>

### *Propriety of Appeal*

#### § 9.1 A decision of the Chairman of the Committee of the Whole can be appealed.

On July 19, 1956,<sup>(16)</sup> after ruling that an amendment to H.R. 627, to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States was not germane,<sup>(17)</sup> Chairman Aime J. Forand, of Rhode Island, stated his opinion as to whether a decision of the Chairman of the Com-

15. See 2 Hinds' Precedents §1313; and 5 Hinds' Precedents §6938. Although this principle has not been explicitly extended to the Committee of the Whole, it applies because of Rule XXIII clause 9, *House Rules and Manual* §877 (1979), which provides that the rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable. See Jefferson's Manual, *House Rules and Manual* §340 (1979); 4 Hinds' Precedents §4737; and 8 Cannon's Precedents §2605.

16. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

17. See §9.2, *infra*, for that ruling and an appeal.

mittee of the Whole was subject to appeal.<sup>(18)</sup>

Mr. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I appeal from the decision of the Chair.

Mr. [BYRON G.] ROGERS of Colorado: Mr. Chairman, a point of order.

The CHAIRMAN: The gentleman will state it.

Mr. ROGERS of Colorado: Can the decision of the Chairman of the Committee of the Whole be appealed, under the rules?

The CHAIRMAN: It can.

**§ 9.2 An appeal from the decision of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill is in order.**

On July 19, 1956,<sup>(19)</sup> during consideration of H.R. 627, to provide means of further securing and protecting the civil rights of certain persons, Chairman Aime J. Forand, of Rhode Island, stated that an appeal from a ruling of the Chairman of the Committee of the Whole as to the germaneness of an amendment to a bill was in order.

H.R. 627 contained the following provision relating to the

18. See §§9.4, 9.5, *infra*, for examples of the sustaining or overruling of decisions of Chairmen.

19. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

duties of the Civil Rights Commission:

Sec. 103. (a) The Commission shall—(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or are being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origin.

An amendment to this provision was offered, as follows:

Mr. [DONALD L.] JACKSON [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jackson: On page 21 strike out lines 9 through 13 and insert the following:

“(1) investigate the allegations that certain citizens of the United States are being deprived of their right to vote or obtain employment, or are being subjected to unwarranted economic pressures, by reason of their color, race, religion, national origin, or membership or non-membership in a labor or trade organization.”

Mr. [EMANUEL] CELLER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

Mr. CELLER: I make the point of order that the amendment is not germane. . . .

Very briefly, Mr. Chairman. I believe the amendment would change the whole complexion of the bill. The purpose of the bill is to prevent and to redress deprivation of constitutional civil rights on the grounds of race, color, religion, or national origin. All through the provisions setting forth the duties of the Commission we find the words

“race, color, religion, or national origin.” That part that the gentleman read contained the words “economic pressures” and the phrase in the bill reads: “Unwarranted economic pressures by reason of their color, race, religion, or national origin.”

For that reason, I insist on my point of order. . . .

THE CHAIRMAN: The Chair is ready to rule. The gentleman from California [Mr. Jackson] has offered an amendment to the bill H.R. 627 now under consideration. The Chair has examined the amendment and also the language of the bill as referred to by the gentleman from California. The Chairman finds that the bill itself has to do with matters of economic pressure by reason of their color, race, religion, or national origin.

The amendment of the gentleman from California goes beyond that and extends to membership or nonmembership in labor or trade organizations. The Chair holds that the amendment is not germane. The point of order is sustained.

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I appeal from the decision of the Chair. . . .

THE CHAIRMAN: . . . The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken; and the Chairman announced that the ayes had it.

So the decision of the Chairman stood as the judgment of the Committee.

### ***Issues to Be Voted on***

#### **§ 9.3 On appeal from a ruling of the Chairman of the Com-**

**mittee of the Whole on an amendment, the vote is not on the merits of the proposed amendment, but on the correctness of the decision of the Chair.**

On July 19, 1956,<sup>(20)</sup> during consideration of H.R. 627, to further secure and protect the civil rights of certain persons, an appeal was taken from a ruling by the Chair on an amendment.<sup>(1)</sup> Chairman Aime J. Forand, of Rhode Island, indicated that the vote on appeal from such a ruling is on sustaining or overruling the decision of the Chairman, not on the merits of the proposed amendment.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. KEATING: On this appeal from the ruling of the Chair, do I understand correctly that in voting on it we are voting not on the merits of the proposition submitted by the gentleman from California but rather on whether the Chair is correct in his ruling?

THE CHAIRMAN: That is correct.

### ***Effect of Refusal of Tellers***

#### **§ 9.4 The Committee of the Whole has sustained a ruling**

20. 102 CONG. REC. 13551, 13552, 84th Cong. 2d Sess.

1. See § 9.2, *supra*, for a discussion of this appeal.

**of the Chair that, once tellers have been properly refused, they cannot again be demanded on the same question.**

On June 13, 1957,<sup>(2)</sup> during consideration of H.R. 6127, a civil rights bill, an appeal was taken from a ruling of the Chairman regarding the sufficiency of the number of Members who rose on a demand for tellers.

THE CHAIRMAN:<sup>(3)</sup> All time has expired. The question is on the amendment offered by the gentleman from Virginia [Mr. Tuck].

The question was taken and the Chair announced that the ayes appeared to have it.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I demand tellers.

Tellers were refused.

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I ask for a division.

MR. [FRANK L.] CHELF [of Kentucky]: Mr. Chairman, the request comes too late.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, a point of order. The request does come too late.

MR. [WILLIAM M.] TUCK: Mr. Chairman, I make the point of order that the Chair had already ruled.

THE CHAIRMAN: This is the situation. The request for a teller vote was

turned down. The gentleman from New York [Mr. Keating] made a request for a division vote. He is within his rights.

The Committee divided; and there were—ayes 106, noes 114.

MR. COLMER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLMER: Would it be in order to have tellers?

THE CHAIRMAN: Tellers have been refused.

MR. [ROSS] BASS of Tennessee: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. BASS of Tennessee: Mr. Chairman the tellers were refused after the Chair had ruled and said that the amendment was agreed to. Then tellers were demanded, and those people who now want tellers felt that the amendment was agreed to, so they did not rise to ask for tellers; and I can get the House to agree with me. I make that point of order and ask the Chair to rule on it.

THE CHAIRMAN: The Chair will rule that on the demand for tellers an insufficient number of Members rose to their feet.

MR. BASS of Tennessee: I disagree with the ruling of the Chair and ask for a vote on the ruling of the Chair. I say that he had already ruled on the vote.

THE CHAIRMAN: Does the gentleman appeal from the ruling of the Chair?

MR. BASS of Tennessee: I appeal from the ruling of the Chair.

MR. [WILLIAM J.] GREEN [Jr.] of Pennsylvania: Mr. Chairman, a point of order.

2. 103 CONG. REC. 9034, 9035, 85th Cong. 1st Sess

3. Aime J. Forand (R.I.).

THE CHAIRMAN: The gentleman will state it.

MR. GREEN of Pennsylvania: Mr. Chairman, it is too late for the gentleman to appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman has appealed from the ruling of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

The question was taken, and the Chairman announced that the ayes apparently had it.

MR. BASS of Tennessee: Mr. Chairman, I demand a division.

The Committee divided; and there were—ayes 222, noes 4.

So the decision of the Chair stands as the judgment of the Committee.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. HOFFMAN: Mr. Chairman, is it now in order to ask for tellers after the rising vote?

THE CHAIRMAN: It is not in order. The question was taken on the amendment and the question was decided.

*Parliamentarian's Note:* The Chair's actual count on a vote is not subject to challenge by appeal.<sup>(4)</sup>

4. See Ch. 31, *infra*, for discussion of appeals from rulings of the Chair. See also Ch. 30, *infra*, for general discussion of voting.

For other instances in which a ruling of the Chair was sustained on appeal, see §9.2, *supra*, §§9.6, 9.7,

### ***Power to Overrule Decision on Appeal***

#### **§ 9.5 On appeal the Committee of the Whole has overruled a decision of the Chairman on a point of order.**

On Feb. 1, 1938,<sup>(5)</sup> during consideration of H.R. 9181, the Dis-

*infra*; 106 CONG. REC. 5477–79, 86th Cong. 2d Sess., Mar. 14, 1960 (a germaneness ruling during consideration of H.R. 8601, “to enforce constitutional rights”); 96 CONG. REC. 2178, 81st Cong. 2d Sess., Feb. 22, 1950 (a ruling regarding a Member’s right to yield for the purpose of offering a motion to rise during consideration of H.R. 4453, the Federal Fair Employment Practice Act); 91 CONG. REC. 9846, 9867–70, 79th Cong. 1st Sess., Oct. 19, 1945 (a germaneness ruling during consideration of H.R. 5407, reducing appropriations); 88 CONG. REC. 1708–12, 77th Cong. 2d Sess., Feb. 26, 1942 (a germaneness ruling during consideration of S. 2208, the second war powers bill, 1942); 88 CONG. REC. 606, 77th Cong. 2d Sess., Jan. 23, 1942 (a ruling on timeliness of a point of order during consideration of H.R. 6448, the fourth supplemental national defense appropriation bill, 1942); 81 CONG. REC. 7698–7701, 75th Cong. 1st Sess., July 27, 1937 (a germaneness ruling during consideration of H.R. 7730, authorizing the President to appoint administrative assistants).

5. 83 CONG. REC. 1372, 1373, 75th Cong. 3d Sess. See also Ch. 31, *infra*,

trict of Columbia appropriation bill of 1939, the Committee of the Whole heard an appeal on a decision of the Chairman that a point of order against an amendment was not timely.

The Clerk read as follows:

Amendment offered by Mr. Collins: On page 68, line 20, after the period, insert a new paragraph as, follows:

"Street lighting: For purchase, installation, and maintenance of public lamps, lampposts, street designations, lanterns, and fixtures of all kinds on streets, avenues, roads, alleys, and for all necessary expenses in connection therewith, including rental of storerooms, extra labor, operation, maintenance, and repair of motortrucks, this sum to be expended in accordance with the provisions of existing law, \$765,000: *Provided*, That this appropriation shall not be available for the payment of rates for electric street lighting in excess of those authorized to be paid in the fiscal year 1927, and payment for electric current for new forms of street lighting shall not exceed 2 cents per kilowatt-hour for current consumed."

MR. [ROSS A.] COLLINS [of Mississippi]: Mr. Chairman, the language that is incorporated in the amendment—

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

MR. COLLINS: Eliminates the language against which the gentleman made the point of order.

Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

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for appeals of the Chair's rulings on points of order.

THE CHAIRMAN:<sup>(6)</sup> The gentleman from Oklahoma makes a point of order on the amendment, and the gentleman from Mississippi makes the point of order that the point of order made by the gentleman from Oklahoma comes too late.

The point of order of the gentleman from Mississippi is sustained. . . .

MR. NICHOLS: If the Chair did recognize the gentleman from Mississippi I may say the Chair recognized him while I was on my feet taking the only opportunity presented to me to address the Chair, in order that I might direct my point of order to the Chair.

THE CHAIRMAN: That may be true. The Chair does not care to indulge in any controversy on that question with the gentleman from Oklahoma. The Chair is merely stating what occurred. The Chair may state further to the gentleman from Oklahoma, in deference to the situation which has developed here, that if that had been true, under the rules it would have been the duty of the Chair to have recognized a member of the committee in preference to any other Member on the floor. The Chair was acting under the limitations of the rule. . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the rule, as I understand it, is that if any action is taken on the amendment, then the point of order is dilatory. The only action that could have been taken was recognition by the Chair of the gentleman from Mississippi to debate his amendment.

I want to call the attention to the Chair to the fact that the only manner in which the Chair can recognize a

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6. William J. Driver (Ark.).

Member to be heard on this floor is to refer to the gentleman either by name or by the State from which the gentleman comes, and I call the attention of the Chair to the fact that the Chair in this particular instance did not say he recognized the gentleman from Mississippi or the gentleman [Mr. Collins], and for that reason there was no official proceeding and no official action taken between the time that the amendment was offered and the time the gentleman from Oklahoma made his point of order, and therefore the point of order was not dilatory.

THE CHAIRMAN: The Chair desires, in all fairness, to make this statement to the Committee, as well as directly to the gentleman from Michigan. Not only was the gentleman from Mississippi recognized, but he began an explanation of his amendment, and the Chair certainly presumes that the gentleman being on the floor at the time heard that; and when that occurred, the Chair does not think the gentleman will disagree with the Chair about the fact that the Chair is required, under the rules, to rule in deference to the situation that developed. The Chair does not desire to forestall proceedings and would be pleased to hear points of order, but the Chair must act within the definition of the rule.

MR. WOLCOTT: If the Chair will indulge me for a moment in that respect, the point I wish to make is this. The gentleman from Mississippi had no authority to address this Committee until he had been recognized by the Chair, and if the gentleman from Oklahoma made his point of order during a brief sentence by someone which had no right under the rules of this House

even to be reported by the official reporter, then he cannot be estopped, under those circumstances, from making his point of order. The Chair of necessity must have recognized the gentleman from Mississippi to debate the amendment.

The offering of an amendment is not a proceeding which will estop the gentleman from Oklahoma from making his point of order. It is recognition by the Chair of another gentleman to discuss the amendment, and the gentleman could have discussed the amendment only after recognition was given.

I want respectfully to call this to the attention of the Chair in order that the Chair may correct any error which has been made or any seeming injustice to the gentleman from Oklahoma, and I respectfully submit that the Chair did not recognize the gentleman from Mississippi, and I believe the Record will bear this out. . . .

MR. NICHOLS: If the Chair has made a final ruling, I would, in the most respectful manner I know, request an appeal from the decision of the Chair.

THE CHAIRMAN: The gentleman from Oklahoma appeals from the decision of the Chair on the ruling of the Chair on the point of order, as stated.

The question before the Committee is, Shall the ruling of the Chair stand as the judgment of the Committee?

The question was taken, and the Chair announced that the noes had it.

So the decision of the Chair does not stand as the judgment of the Committee.

### ***Debate on Appeal***

### **§ 9.6 An appeal in the Committee of the Whole is debat-**

**able under the five-minute rule and such debate is confined to the appeal.**

On Feb. 22, 1950,<sup>(7)</sup> during general debate on H.R. 4453, the Federal Fair Employment Practices Act, Chairman Francis E. Walter, of Pennsylvania, set forth the limitations on debate on an appeal in the Committee of the Whole.

THE CHAIRMAN: The gentleman from South Carolina . . . cannot yield to the gentleman from Virginia for the purpose of offering that motion [that the Committee rise].

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I respectfully appeal from the decision of the Chair.

THE CHAIRMAN: The question is, Shall the decision of the Chair be sustained?

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: Mr. Chairman, is that appeal debatable?

THE CHAIRMAN: Under the 5-minute rule; yes.

MR. RANKIN: Mr. Chairman, I would like to be heard.

THE CHAIRMAN: The gentleman is recognized. The Chair will say that the discussion is now on the appeal. . . .

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman; a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. MARCANTONIO: I make the point of order that the gentleman from Mississippi must direct his remarks to the question of the appeal from the ruling of the Chair.

THE CHAIRMAN: The gentleman is correct. . . .

The question is, Shall the decision of the Chair be the judgment of the Committee?

The question was taken; and the Chair being in doubt, the Committee divided and there were—ayes, 123, noes, 77.

MR. SMITH of Virginia: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Powell and Mr. Smith of Virginia.

The Committee again divided; and the tellers reported that there were—ayes 148, noes 83.

So the decision of the Chair stands as the judgment of the Committee.<sup>(8)</sup>

### ***Vacating Chair to Put Appeal***

#### **§ 9.7 After an appeal was taken from a decision of the Chairman of the Committee of the Whole, the Chairman left the chair to permit another Chairman to put the question.**

On Oct. 19, 1945,<sup>(9)</sup> after sustaining a point of order that a proposed amendment was not ger-

8. See also 88 CONG. REC. 1708-12, 77th Cong. 2d Sess., Feb. 26, 1942, for a similar ruling.

9. 91 CONG. REC. 9846, 9868-70, 79th Cong. 1st Sess.

7. 96 CONG. REC. 2178, 81st Cong. 2d Sess.



mane to H.R. 4407, reducing appropriations, and hearing debate on an appeal of that ruling, Chairman Fritz G. Lanham, of Texas, left the chair to permit Chairman Jere Cooper, of Tennessee, to put the question whether the decision of the Chair should stand as the judgment of the Committee of the Whole.<sup>(10)</sup>

The Clerk read as follows:

*Be it enacted, etc.,* That the appropriations and contractual authorizations of the departments and agencies available in the fiscal year 1946, and prior year unrevoked appropriations, are hereby reduced in the sums hereinafter set forth. . . .

The officer and enlisted personnel strengths of the Army, Navy, Marine Corps, and Coast Guard shall be demobilized at a rate not less than would be necessary to keep within the amounts available for their pay in consequence of the provisions of this act, unless the President otherwise shall direct. . . .

The following amendment was offered:

The Clerk read as follows:

Amendment offered by Mr. [John E.] Rankin [of Mississippi]: On page 36, line 7, after the word "direct", strike out the period, insert a colon and the following:

"*Provided*, That (a) there shall be discharged from, or released from active duty in, the military or naval

forces of the United States without delay, any person who requests such discharge or release and who—

"(1) has served on active duty 18 months or more since September 16, 1940; or

"(2) has, at the time of making such request, a wife or a child or children with whom he maintains (or would but for his service maintain) a bona fide family relationship in his home. . . ."

MR. [EMMET] O'NEAL [of Kentucky]: . . . I make the point of order that the amendment offered by the gentleman from Mississippi is not germane to the bill. . . .

THE CHAIRMAN: Does the gentleman from Kentucky desire to be heard on the point of order?

MR. O'NEAL: . . . This is writing a legislative bill in here. It is so far beyond anything in this bill that I do not believe there is any question but that the Chair will have to declare it not germane, and therefore not in order.

THE CHAIRMAN: The Chair is ready to rule.

The question before the Chair does not concern the merits of the provisions of the amendment offered by the gentleman from Mississippi. It is the duty of the Chair simply to pass upon the point of order from a parliamentary standpoint, as to whether or not the amendment is germane.

The amendment offered by the gentleman from Mississippi is clearly a general legislative expression and proposes substantive law, whereas the provision in the bill to which the amendment is offered is merely the expression of a hope that within the amounts available for their pay and in consequence of the provisions of this act demobilization will be carried on as rapidly as possible.

10. The decision whether to permit another Member to put the question on an appeal is within the discretion of the Chairman. 8 Cannon's Precedents §3101.

In the opinion of the Chair, clearly, under the limitations of the general provision on page 36, this amendment, being a general legislative provision with reference to demobilization and having the effect of substantive law, and not being restrictive is not germane. The Chair therefore sustains the point of order.

MR. RANKIN: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair. . . .

THE CHAIRMAN: The question at issue is, Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

MR. RANKIN: Mr. Chairman, I ask for recognition on my appeal if it is debatable.

THE CHAIRMAN: The gentleman from Mississippi is recognized for 5 minutes on the appeal.

MR. RANKIN: Mr. Chairman, I merely wish to say, with all deference to the Chairman who labored considerably with this proposition that I think the amendment is clearly germane. I have taken this appeal because it is our chance to get these boys out of the service. It is no reflection on the Chair to overrule the decision of the Chair. I trust the decision of the Chair will be overruled. If it is overruled, that will give us a chance to vote on my amendment, which you can see the Members are anxious to support. . . .

MR. O'NEAL: I beg to differ with the statement of the gentleman from Mississippi. The Chair has made a decision and ruled on a point of order. This appeal is not on the merits of the amendment. The gentleman from Mis-

issippi has appealed to you that the Chair has decided wrongly. Your decision, just as though you were a judge on the bench, is to decide whether or not the Chair was in error when he ruled that the point of order was well taken.

THE CHAIRMAN (Mr. Cooper): The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

The question was taken; and the Chair announced that the "ayes" had it.

So the decision of the Chair stands as the judgment of the Committee of the Whole.

### ***Appeal as Subject to Motion to Table***

#### **§9.8 The motion to lay on the table an appeal from a decision of the Chair is not in order in the Committee of the Whole.**

On Oct. 19, 1945,<sup>(11)</sup> after ruling that a proposed amendment was not germane to H.R. 4407, reducing appropriations, Chairman Fritz G. Lanham, of Texas, stated that a motion to table a decision of the Chair is not in order in the Committee of the Whole.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, with all the deference in the world for the distinguished Chairman, whom we all love, I respectfully appeal from the ruling of the Chair.

11. 91 CONG. REC. 9846, 9868-70, 79th Cong. 1st Sess.

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I move to lay the appeal on the table.

MR. RANKIN: Mr. Chairman, the appeal cannot be laid on the table. The Committee has a right to vote on it.

THE CHAIRMAN: The motion to lay on the table is not in order in the Committee.<sup>(12)</sup>

## C. MOTION TO RECOMMEND STRIKING ENACTING CLAUSE

### § 10. Generally

Although the Committee of the Whole does not have authority to consider a simple motion to strike the enacting clause of a bill,<sup>(13)</sup> it may agree to a motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.<sup>(14)</sup> Agreement by the House to the recommendation is considered equivalent to rejection of the bill.<sup>(15)</sup>

If the House rejects a recommendation of the Committee of the Whole to strike the enacting

clause, it automatically resolves itself into the Committee for further consideration of the bill<sup>(16)</sup> which, by operation of the rule, is returned to the Committee without further House action. The bill goes back to the Committee of the Whole as unfinished business and is subject to amendment. Before the question of concurrence by the House is raised, a motion to refer the bill to any committee with or without instructions is in order, the Member offering that motion to refer need not qualify as being opposed to the bill;<sup>(17)</sup> when the bill is again reported to the

12. See also 81 CONG. REC. 7698–7700, 75th Cong. 1st Sess., July 27, 1937, for another illustration of this principle.

13. See § 10.1, *infra*. An older line of precedents took a different view. See, for example, 5 Hinds' Precedents § 5332, stating that the motion to strike out the enacting clause applied in the Committee of the Whole. The Chair sometimes took the view that the motion to strike the enacting clause was in the nature of an amendment. (See 8 Cannon's Prece-

dents § 2618.) Since the motion can be dispositive of a bill, however, present practice is to allow it in the House and not in the Committee of the Whole.

14. § 10.2, *infra*.

See 5 Hinds' Precedents §§ 5326–5346 and 8 Cannon's Precedents §§ 2618–2638 for earlier precedents relating to these motions.

15. See § 10.6, *infra*.

16. § 10.9, *infra*.

17. See 8 Cannon's Precedents § 2629.